

AMENDED IN SENATE APRIL 7, 2014

**SENATE BILL**

**No. 902**

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**Introduced by Senator Vidak**

***(Coauthors: Senators Fuller and Walters)***

***(Coauthors: Assembly Members Donnelly, Gorell, Harkey, and Jones)***

January 16, 2014

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An act to add Section 185036.3 to the Public Utilities Code, relating to high-speed rail, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 902, as amended, Vidak. High-speed rail: eminent domain.

(1) Existing law creates the High-Speed Rail Authority with specified powers and duties relating to the development and implementation of an intercity high-speed train system. Existing law authorizes the authority to acquire rights-of-way through purchase or eminent domain. Existing law sets forth the process for acquisition of property by eminent domain, including a requirement for adoption of a resolution of necessity. Before adopting a resolution of necessity, existing law requires a public entity to determine the fair market value of the property to be acquired and to offer that amount to the owner of the property.

This bill would prohibit the authority, or the State Public Works Board acting on behalf of the authority, from adopting a resolution of necessity to commence an eminent domain proceeding to acquire a parcel of real property for the high-speed train system unless the resolution identifies the sources of all funds to be invested in the property, and the anticipated time of receipt of those funds, and declares that the authority, or the board, has offered to purchase the property at not less than the fair market value or the amount necessary to discharge the liens against the

property, as described, whichever is greater. The bill would require the authority or the board to be responsible for compliance with any environmental protection laws or regulations that are applicable to the property it acquires pursuant to eminent domain.

(2) This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 185036.3 is added to the Public Utilities  
2 Code, to read:

3 185036.3. (a) The authority, or the State Public Works Board  
4 acting on behalf of the authority, ~~may~~ *shall* not adopt a resolution  
5 of necessity to commence an eminent domain proceeding under  
6 Article 2 (commencing with Section 1245.210) of Chapter 4 of  
7 Title 7 of Part 3 of the Code of Civil Procedure to acquire a parcel  
8 of real property for the high-speed train system unless the  
9 resolution includes, in addition to other requirements imposed by  
10 law, both of the following:

11 (1) Identification of the sources of all funds *that are* to be  
12 invested in that property and the anticipated time of receipt of  
13 those funds based on expected commitments, authorizations,  
14 agreements, allocations, or other means.

15 (2) (A) A declaration by the authority, or the State Public Works  
16 Board, that it has (i) established an amount that it believes to be  
17 just compensation for the property that is not less than the  
18 authority's approved appraisal of the fair market value of the  
19 property or the amount necessary to discharge the liens against the  
20 property, whichever is greater, and (ii) made an offer to the owner  
21 or owners of record to acquire the property for the full amount so  
22 established, in the manner required under Section 7267.2 of the  
23 Government Code.

24 (B) For purposes of this paragraph, "liens against the property"  
25 includes only those liens that secure the repayment of the purchase  
26 price of, or the cost of improvements to, the property.

27 (b) A resolution of necessity that fails to comply with the  
28 requirements in subdivision (a) is invalid.

1 (c) If the authority, or the State Public Works Board acting on  
2 behalf of the authority, acquires any property pursuant to an  
3 eminent domain proceeding, it shall be responsible for compliance  
4 with any environmental protection laws or regulations that are  
5 applicable to the property.

6 SEC. 2. This act is an urgency statute necessary for the  
7 immediate preservation of the public peace, health, or safety within  
8 the meaning of Article IV of the Constitution and shall go into  
9 immediate effect. The facts constituting the necessity are:

10 In order to make statutory changes necessary to permit the  
11 High-Speed Rail Authority to acquire real property to be used for  
12 the high-speed rail system, at the earliest possible time, it is  
13 necessary that this act take effect immediately.